IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL MISC. APPEAL No. 284 of 2005

BALIKA U.P.V.NIKETAN
V/S
PIYUSH KUMAR

Mr. AK RAJVANSHY, for the appellant / petitioner

Mr. M MRIDUL Assisted by Mr.SANDEEP SHAH, for the respondent

Date of Order : 13.4.2005

HON'BLE SHRI N P GUPTA,J.

ORDER

Heard learned counsel for the parties, and perused the record, which was requisitioned.

The learned trial Court has made provisional determination of rent under Section 13(3), by holding that the defendant has not specifically controverted the pleading of the plaintiff about the entire premises, covered by the two suits, existing on plot no.62 & 63 both to be at a monthly rent of Rs.250/-, and has only taken the stand that the standard rent of the premises is to be Rs.350/- per month. With this, the learned trial Court has noticed the contradictory affidavits of Hakimudin, and considering this, has gone on the question, as to whether Rs.2500/- is the rent for the entire building existing on the plot no.62 & 63, or for the portion comprising of the suit premises, and has concluded that this rent of Rs.2500/- was for the entire premises existing on both the plots no.62 & 63, and with this, has made determination @ Rs.1250/- per month. True it is that while passing the impugned order, the learned trial Court has not taken into account the material available on record indicating the rent to be Rs.2500/- for the entire premises with respect to which material several controversies were raised by the learned counsel for the appellant during trial. In that view of the matter, it would not be appropriate for me at this stage to go into the niceties of the material, so also to go into the controversy raised by the appellant,

but then in the totality of circumstances, I do not find any sufficient ground to interfere with the impugned order. However, it is already clear that the determination is only provisional, and is subject to final adjudication at the time of final decision of the suit.

Thus, I do not find any force in the appeal. The same is, therefore, dismissed summarily. The record of the learned trial Court be returned forthwith.

(N P GUPTA),J.

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